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UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re
CRESTLLOYD, LLC,

Debtor in Possession.

Case No. 2:21-bk-18205-DS
Chapter 11

**RESERVATION OF RIGHTS OF
SECURED CREDITOR INFERNO
INVESTMENT, INC. TO SECOND
INTERIM APPLICATION OF LEVENE,
NEALE, BENDER, YOO & GOLUBCHIK
L.L.P. FOR APPROVAL OF FEES AND
REIMBURSEMENT OF EXPENSES**

Date: December 8, 2022
Time: 11:30 a.m.
Crtrm.: 1639

**TO THE HONORABLE DEBORAH SALTZMAN, UNITED STATES BANKRUPTCY
JUDGE, LEVENE, NEALE, BENDER, YOO & GOLUBCHIK, L.L.P., AND ALL OTHER
PARTIES IN INTEREST:**

In its second interim fee application, counsel for Crestlloyd seeks allowance of fees and authority to pay the allowed fees from \$1,749,783.22 in funds on hand that it represents are unencumbered. The source of the majority of those funds, if not the entirety, is the debtor-in-possession loan that Crestlloyd obtained from Hankey Capital that was secured by a first priority lien against the real property that Crestlloyd owned. Rather than draw down on the loan as it was needed, Crestlloyd immediately drew the entire loan down, deposited the proceeds into its debtor-in-possession account (the "DIP

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1 Loan Proceeds"), and then repaid the loan in full with the proceeds from the sale of the
2 real property. These funds are not truly "unencumbered." The treatment of the loan in
3 this manner resulted in a reduction of proceeds available to pay the remaining liens
4 against the real property, thereby financing this case at the expense of the junior
5 lienholders who will not be paid in full and who, as it turns out, were not adequately
6 protected. As a result, in its complaint, Inferno seeks a declaratory judgment resolving
7 the dispute over whether the remaining DIP Loan Proceeds are unencumbered. Yogi
8 Securities Holdings, LLC, has raised the same issue in its counterclaim. To the extent
9 that the Court allows the fees and authorizes payment, Inferno reserves the right to
10 assert that the DIP Loan Proceeds are not unencumbered such that the fees may be
11 subject to disgorgement if Inferno prevails on its claim, with all parties reserving all rights
12 and defenses with respect to that claim.

13
14 DATED: December 1, 2022

Respectfully submitted,

15 SMILEY WANG-EKVALL, LLP
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17 By: /s/ Kyra E. Andrassy

18 KYRA E. ANDRASSY

19 Attorneys for Inferno Investment, Inc.
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PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
3200 Park Center Drive, Suite 250, Costa Mesa, CA. 92626

A true and correct copy of the foregoing document entitled (*specify*): **Reservation of Rights of Secures Creditor Inferno Investment, Inc. to Second Interim Application of Levene, Neale, Bender, Yoo & Golubchik LLP for Approval of Fees and Reimbursement of Expenses** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On **12/1/2022**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

☒ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) , I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

12/1/2022
Date

Lynnette Garrett
Printed Name

/s/ Lynnette Garrett
Signature

TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):

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